



Senator Stephen L. Johnson

47TH LEGISLATIVE DISTRICT



SUMMER 2005

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Dear Neighbor:

The 2005 legislative session ended on Sunday, April 24. Perhaps the issue that most overshadowed the session was the 2004 governor's election and the obvious need to make significant changes to our election process to restore public trust and confidence.

A second major issue for the Legislature was adopting an operating budget for the next two years. We could have done it without raising taxes, but that was not the will of the majority party. It was especially alarming when the state's estate tax was revived after being thrown out by the Washington State Supreme Court just two months earlier.

In this newsletter, I have provided a summary of a budget plan without any tax increases that the Legislature could have adopted. I also explain why I did not support the gas tax hike and report on a number of key issues I think will be of interest to you.

If you have any questions about legislation we considered this year or about state government, please do not hesitate to contact my office. My Legislative Assistant, Jennifer Baga, will be glad to work with you and let me know what I can do to help.

It is my pleasure and privilege to serve you in the Washington State Senate.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Johnson", with a stylized flourish at the end.

Senator Stephen L. Johnson



New taxes could have been avoided

The Legislature did not have to raise taxes to run the state for the next two years. The key areas in need of protecting or funding are all covered in the "People's Budget," the plan my Republican colleagues and I offered as an alternative. Here are highlights of that proposal:

Education

Fully fund the two education initiatives (I-728 and I-732) without a tax increase; fully fund levy equalization.

Higher Education

Over 10,000 new enrollments; increased financial aid availability to the middle class; greater efficiency – limiting career students and tuition waivers.

Health Care

Protect nursing home funding; maintain access via vendor rate increase for health care providers; retain verification and eligibility efforts for Medicaid.

Human Services

Completely backfill federal mental health funding loss; continue closure of Fircrest School to ensure additional funding for services for persons with developmental disabilities.

Pensions

Sound and systematic funding – keep the commitment to our employees; make payments to unfunded liabilities.

Environment and Parks

Eliminate state parks day fee; protect environmental funding – don't raid environmental accounts.

Compensation

Fund collective bargaining agreements in exchange for greater efficiencies.

Fiscal Responsibility

Nearly triple the emergency reserve fund balance

The "People's Budget" includes a total savings difference of \$959 million from the budget that was adopted. It also doesn't have the problems.

The 2005-07 operating budget is not sustainable; it puts the state on the road to another revenue crisis and a potential lawsuit.

- ✓ General Fund spending is increased by 11.7 percent over the current biennium – nearly four times the rate of inflation;
- ✓ Taxes are increased by more than \$400 million – including a new tax on extended warranties and a new estate tax;
- ✓ The state's reserve fund for unexpected emergencies depleted – leaving it vulnerable to one bad revenue forecast;
- ✓ The scheduled payment toward the unfunded liability in the pension fund for state workers and teachers is skipped – leaving the state vulnerable to a lawsuit.
- ✓ New enrollments at the state's colleges rely solely on the reinstated estate tax and the new tax on cigarettes – an obligation previously supported by the state general fund.



Sen. Johnson reviews the calendar for bill consideration with Sen. Hewitt from Walla Walla (left) and Sen. Brandland from Bellingham (right).

- ✓ Uses a one-time revenue boost of \$51.6 million by moving up the due date for real estate tax payments.

During Senate debate on the budget, I offered an amendment to save taxpayers \$20 million by imposing a 10 percent reduction in out-of-state travel by state employees, state agency equipment purchases and personal service contracts. Unfortunately, this amendment was defeated by the majority party. Several other cost-saving amendments were also turned down. In all, the 2005-07 budget is almost completely devoid of reductions.

Ensuring coverage for mental health:

Making people and families stronger

As a member of the board of directors for Valley Cities Counseling & Consultation, I understand how important it is for children and adults to have access to health care that includes adequate mental health benefits. This year we passed a bill that ensures mental health parity in health care coverage. So many physical problems, like drug and alcohol addiction, are related to mental health problems – as are incidences of domestic violence and child abuse and neglect.

We have in our community organizations like the Covington Family Support Center which works with youths and families to develop strong relationships and a sense of belonging. Programs offered by this center, such as helping youths develop skills to avoid at-risk activities, will be enhanced if a family's health plan includes professional counseling and treatment for those children who need it.

Death tax revived

The 2005-07 operating budget brings back the state's "death tax" as a stand-alone tax that threatens family businesses.

The estate tax or "death tax" is a dinosaur among taxes. Washington is the only western state to impose such a tax. People work hard all their lives for what they have and they pay taxes as they go: sales tax; real estate tax; property tax, business and occupation tax. This is why the people of Washington voted to end the state's estate tax in 1981.

- ✓ Initiative 402 was approved in November 1981 by a 67 percent "yes" vote. This measure eliminated the state's estate tax as a stand-alone tax and tied it to the federal estate tax. Under this measure, no state estate tax was collected that could not be credited toward the federal tax owed.
- ✓ In 2001, Congress voted to phase out the federal estate tax by 2010. Because Washington's law did not reflect this change, the state Department of Revenue continued to collect taxes on estates. In February of this year, the Washington State Supreme Court said this was wrong, ordered refunds and said the state had to stop collecting the estate tax. The Court said a new tax burden can only be created by a law that states such a purpose.

During Senate debate on the bill to bring back the estate tax, I offered four amendments, all of which were defeated by the majority party. These amendments are as follows:

- Allow a deduction for all family homes, not just farm family homes.
- Increase the exemption rate to \$3.5 million in 2009 and end the tax in 2010 when the federal estate tax ends. The bill begins the taxable estate at \$1.5 million in 2006 and \$2.5 million beginning in 2007.
- Provide a deduction of \$1 million from the value of a qualified family-owned business; the deduction would grow over time with inflation based on the Seattle Consumer Price Index.
- Send the bill to the voters in November by adding a referendum clause.

Election reform

No issue consumed more time this session than fixing our elections process. In the Senate alone, 31 bills were introduced dealing with the process. In the end, some good changes were made, but two key changes were rejected by the majority party.

Even though the citizens who testified before the governor's Election Reform Task Force overwhelmingly supported **proof of U.S. citizenship to register to vote** and **proof of identity through photo identification at the polls to vote**, neither of these reforms were enacted.

However, several key provisions were included in the election reform bills passed. These include:

- All county election departments must be reviewed by the Secretary of State at least once every three years and steps to be taken in response to any problems identified must be submitted in writing.
- Provisional ballots and absentee ballots must look different from regular poll ballots. This is particularly important for provisional ballots because in King County alone, 660 provisional ballots from the November 2004 general election were fed into vote-counting machines before the voter's registration was verified. They could not be retrieved

because they looked just like regular poll ballots.

- All election board workers must have access to a plain English, easy-to-understand manual for every step of the process.
- Ballots may not be "enhanced" – a common practice today that can be subjective and manipulative. In the 2004 governor's race, 55,000 ballots were enhanced in King County alone. Under the new law, damaged ballots may be duplicated so they can be counted electronically, but only if the voter's intent is clear. The original and duplicate ballots must be kept together and the process must be monitored by a team of two or more people.
- The Secretary of State must develop uniform guidelines for all counties to follow in verifying signatures on absentee ballot return envelopes and unsigned envelopes will require the voter to appear in person to resolve the situation.

The Legislature also approved, without my support, a bill authorizing counties to go to all-mail elections. Voting by mail is necessary for some voters, but an election conducted exclusively by mail increases the opportunity and likelihood for voter fraud.

Fighting the meth epidemic

Meth labs have become a significant problem in our state.

Methamphetamine is a very addictive drug that is easily produced in a makeshift, sometimes mobile, lab – creating a highly volatile and dangerous situation.

My colleagues and I have toughened penalties for operating a meth lab over the past few sessions – especially when children are discovered on the premises. We've also passed legislation limiting access to common cold medicines that contain drugs used to make methamphetamine. Before this year, our efforts have been mostly focus on the wholesale level. This year we passed a new law that significantly restricts access at the retail level.

House Bill 2266 requires that cold and allergy medicines containing ingredients

used to make methamphetamine must be kept in an area not accessible to the public. Persons purchasing such medicines must show photo ID for the clerk to verify he or she is at least 18 years of age. A person may only purchase two packages (3 grams) in one transaction in a 24-hour period.

This bill fell into dispute between the House and Senate at the last minute over how best to require retail outlets to keep track of purchases. I served on the conference committee that found a compromise and allowed the bill to become law. Under the provisions of the compromise, the State Board of Pharmacy will conduct a pilot project to determine the best way for sellers of the drugs to keep a log so that it is useful to law enforcement and can act as a deterrent to criminal activity.

Identity theft

Identity theft is one of the fastest growing crimes in Washington and it is a crime with long-term consequences for victims.

The toll on consumers, financial institutions and retailers is in the millions of dollars every year. Modern technology has given this crime a boost.

In 2003, the Legislature approved five new laws dealing with identity theft. These new laws include:

- Making it a crime to manufacture or sell fraudulent driver's licenses and identicards;
- Creating five felony identity theft crimes and adding these to offenses under the Criminal Profiteering Act;
- Exempting personal identification numbers from public disclosure;
- Making fraudulent use of a payment scanning card device a felony; and
- Allowing verification of identity for credit card transactions.

In 2004, the Legislature approved a measure requiring the state Department of Licensing to implement a biometric ID system by January 1, 2006, as an option for someone applying for or renewing a driver's license. The identifiers could be a fingerprint, facial mapping or retinal scan.

This year we increased the arsenal to fight identity theft with the following new laws:

☒ **ESB 5418** – This measure allows victims of identity theft to freeze the issuance of their credit reports. A

credit report is required in many transactions. If the report is unavailable, people who have stolen someone's identification will not be able to obtain credit cards and make purchases under the stolen identity. A victim of identity theft requesting a freeze is

given a personal ID number to use when making a request for a temporary lifting of the freeze for a specified person or entity.

☒ **SSB 5939** – This measure makes sure law enforcement agencies give victims of identity theft a copy of their police report. Victims sometimes find that they need the report in order to put a fraud alert on their credit history and to facilitate the process of clearing the fraud from their financial records.

☒ **SSB 6043** – This measure requires any agency, person or business that owns and licenses computerized data that includes personal information to inform Washington consumers of any breach in their data security as soon as possible after the breach has been discovered.

**PROTECT
YOURSELF
FROM IDENTITY THEFT**

**Visit the Attorney
General's Web site:
www.atg.wa.gov**

Private property rights must be protected

As you may have read in the news, The Citizens' Alliance for Property Rights wanted to challenge the King County Critical Areas Ordinance through three referendums that would have allowed voters in unincorporated King County to approve or reject the laws. A judge ruled against the referendums going forward. The organization has appealed this decision to the Washington State Supreme Court.

Then on March 3, 2005, rural King County residents and the Pacific Legal Foundation sued King County over the new land use rules. The lawsuit focuses on the requirement that 50 to 65 percent of their land be left in native vegetation.

This year, I co-sponsored legislation that required the opportunity for a referendum on critical areas regulations adopted by a county council. Another bill introduced allowed for referendums on decisions made by Growth Management Hearings Boards. I also co-sponsored legislation requiring compensation for county regulatory actions that reduce property values. None of the bills were given a public hearing by the majority party.

Government has to be fair when it imposes new restrictions on private property. Citizens should have the right to challenge decisions through the ballot box; and private property owners should be fairly compensated when their land loses value through government regulations that did not exist when the property was purchased.

Education

As I mentioned in the budget section of this newsletter, we could have fully funded the two voter-approved initiatives for our schools – I-728 and I-732 – without raising taxes. They were funding priorities, which I supported coming into the session. While I disagree with the tax increases, the state's spending over the next two years is strong for education. For budget highlights and more detailed budget information, please visit the Legislative Evaluation & Accountability Program Committee Web site at: <http://leap.leg.wa.gov/leap/budget/detail/2005/o0507f.asp>.

Simple Majority

This issue, allowing school levies and bonds to pass by a simple majority vote is a difficult one. It is unfair to characterize this as a pro/con schools debate. People do care about good schools, but there is a breaking point when it comes to property taxes.

Local levies allow local voters – people who have the most to gain by having good schools in their neighborhoods – to decide how much they can afford. But property taxes are already high and for many they are difficult to pay. The 60 percent "yes" vote requirement for passage of a levy or bond was put in the Constitution more than 70 years ago as a protection for homeowners.

By way of a compromise, I supported an amendment to the simple majority bill that would have allowed 50 percent plus one to pass a levy if the measure was placed on the November ballot. People expect elections in November; they may not in March, April or May. If we are going to make it easier to raise property taxes above the Constitutional limit, we must ensure that all voters know there is an election that could result in higher taxes.

In the end, the amendment failed and without it there were not enough votes to pass the bill.

Gas tax increase too high, stops short of finish line

In 2002, voters rejected Referendum 51 that would have increased the state's gas tax by 9-cents per gallon. The measure was defeated statewide with a 62.58 percent "no" vote and in the 47th District by a "no" vote of 60.67 percent. Feedback from voters was pretty clear: It was too much and it didn't delivered finished projects.

In 2004, the Legislature listened to this advice and approved a 5-cent per gallon increase to fund specific projects through completion. I supported this effort because the tax increase was much smaller and because people would be able to see and use finished projects.

The bill approved this year, without my support, increases the gas tax by 9.5-cents per gallon over the next four years. Unlike the "nickel fund" from 2004, this year's gas tax increase is not attached to a plan to bring projects to completion.

The project list is heavily weighted toward Seattle and some projects affecting our district are subject to significant contingencies – one of which is substantial voter-approved local funding.

A quarter of the new gas tax money (\$2 billion) will go to the Alaska Way Viaduct with no plan in place to complete the project and no plan as to how the money will be raised to pay the huge total price tag – estimated to be more than \$4 billion dollars at today's construction costs.

We did take a baby step toward making the state Department of Transportation more efficient by insisting on performance audits conducted by the state auditor, but there is more to do.

HOT Lanes Pilot Project

We simply must think about adopting other ways for users of our highways to pay for them. I supported a measure this year that establishes a toll lane pilot project along the nine-mile stretch of HOV lanes on SR-167 in King County between Auburn and Renton.

Allowing people who drive alone to use less crowded HOV lanes for a pre-paid toll through a pilot project will help us sort out issues relating to fairness, privacy, enforcement and acceptance.

New auto emissions standards

When the governor signed House Bill 1397 into law, Washington became the ninth state in the nation to require tougher auto emissions standards than required by federal law. The new standards will require improvements to air conditioners, more efficient transmissions and smaller engines. The effect will likely be fewer SUVs, minivans and pickup trucks sold and a larger number of higher MPG vehicles in the fleet mix.



Like many of my colleagues, I am not convinced this bill was necessary, but I did support amendments in the Senate to lessen its impact on the auto industry and consumers. These amendments were all part of the final measure approved:

- The Department of Ecology is prohibited from imposing quotas on car dealers to sell a certain number of super-clean-running zero emission vehicles each year;
- New vehicles licensed in Washington, but purchased from out-of-state dealers, must meet the standards;
- Auto manufacturers may certify independent automobile repair shops to perform warranty service; and
- Washington's adoption of the standards is contingent upon adoption of the standards in Oregon.

We also approved a measure that exempts from the sales and use tax for two years beginning in 2009 new passenger cars, light-duty trucks and medium passenger vehicles exclusively powered by a clean alternative fuel or using "hybrid" technology with a rating of at least 40 MPG. On a new car costing \$20,000 this could save the buyer nearly \$2,000.

State agency performance audit bill gets watered down

One of the issues I have long supported is performance audits for state agencies. I believe efficiency, effectiveness and accountability in government are key to trust in government. This session, I co-sponsored a measure to direct the state auditor to conduct performance audits of all state agencies.

A hybrid of this bill was introduced in the House, House Bill 1064, and this became the vehicle for a system of performance audits. Unfortunately, the version that passed the Legislature, without my vote, created an appointed board to oversee when and how performance audits will be conducted. The state auditor, an independently elected official directly accountable to voters, will collaborate with the board and must contract out for the performance audits. Ultimately, however, it is the appointed board, and not the state auditor that is responsible for what the system of performance audits will look like and what entities will be audited.

During Senate debate on this measure, I supported amendments that

would have put the responsibility for performance audits back in the hands of the state auditor. Both amendments were rejected by the majority party.

There is currently a signature drive underway for Initiative 900 that directs the state auditor to conduct performance audits of state and local governments. The measure dedicates 0.16 percent of the state's portion of the sales and use tax to pay for these audits.

Public disclosure keeps government transparent

At the request of Attorney General Rob McKenna, I co-sponsored a bill to keep governments from turning down public records requests solely on the basis that the request is overly broad. Citizens might not know exactly what to ask for or how to ask for it. Governments should help citizens obtain the documents they want. The second part of the bill limited the use of the attorney-client privilege to keep documents from public view.

The provision of the bill dealing with attorney-client privilege was significantly changed in committee and received a great deal of criticism from the media. I did not support this change.

I also did not support two Senate amendments that could have provided special privileges for legislators and exempted certain information about sex offenders from public disclosure. Neither of these amendments were part of the final bill.

Ultimately, the Legislature approved a measure that prohibits a government agency from denying a public records request solely on the grounds that the request is overly broad. In addition, the attorney general is directed to adopt a model rule for state and local agencies in addressing public records requests regarding assistance to the requester, providing for a timely response to a request, fulfilling requests for electronic records and other issue as determined by the attorney general.

